

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JULIE A PUCCI,

Plaintiff,

Case No. 07-10631

Honorable David M. Lawson

v.

CHIEF JUDGE MARK W. SOMERS, in his
official and individual capacities,

Defendant.

**ORDER GRANTING MOTION FOR RELIEF FROM JUDGMENT
AND TEMPORARILY VACATING JUDGMENT**

On June 30, 2011, a jury rendered a verdict in this case. Pursuant to that verdict, the Court entered a judgment in favor of the plaintiff in the amount of \$734,361.00 on June 30, 2011. Because the jury made a factual determination that the plaintiff's speech caused or could have caused disharmony at the 19th District Court, the Court granted the defendant fourteen days from the close of trial to file a motion under *Pickering v. Board of Education of Township High School District 205, Will County, Illinois*, 391 U.S. 563 (1968) and granted the plaintiff fourteen days to respond. The defendant's motion for judgment as a matter of law, stay, and remittitur was timely filed on July 14, 2011; the plaintiff's response was filed on July 28, 2011. On July 8, 2011, the defendant filed a motion seeking relief from the June 30, 2011 judgment pending resolution of the *Pickering* issue.

Federal Rule of Civil Procedure 60(b)(6) provides that "[o]n motion and just terms, the court may relieve a party or its legal representative from a final judgment, order, or proceeding for. . . any other reason that justifies relief." Fed. R. Civ. P. 60(b)(6). This provision "confers upon the district court a broad equitable power to 'do justice.'" *Johnson v. Bell*, 605 F.3d 333, 336 (6th Cir. 2010). It "empowers district courts to revise judgments when necessary to ensure their integrity." *Ibid*.

The defendant has filed a motion for judgment as a matter of law, stay, and remittitur, requesting that the Court perform a *Pickering* balancing test to determine whether the plaintiff's speech was protected by the First Amendment in light of the jury's finding that the plaintiff's speech caused or could have caused disharmony at the 19th District Court. Should the Court decide the motion in the defendant's favor, the amount of the judgment for the plaintiff would be affected. The Court finds this to be a reason justifying temporary relief from judgment until such time as the Court performs the *Pickering* analysis requested by the defendant.

Accordingly, it is **ORDERED** that the defendant's motion for relief from judgment [dkt. #105] is **GRANTED**.

It is further **ORDERED** that the judgment entered in this matter on June 30, 2011 [dkt. #104] is **VACATED** until such time as the Court renders a decision on the defendant's motion for judgment as a matter of law, stay, and remittitur [dkt. #107].

s/David M. Lawson
DAVID M. LAWSON
United States District Judge

Dated: October 24, 2011

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on October 24, 2011.

s/Deborah R. Tofil
DEBORAH R. TOFIL